

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2013)

A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, AND  
SECTION 3.48.305, MAUI COUNTY CODE, RELATING TO HOME BUSINESSES

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 19.04.040, Maui County Code, is amended by adding new definitions to be appropriately inserted and to read as follows:

““Home business” means an enterprise or activity, conducted by the occupant of a dwelling unit that includes the growing, processing, or manufacturing of a product, or the provision of services, for consideration and profit.

“Nuisance” means an activity, which arises from unreasonable, unwarranted, or unlawful use by a property owner, or an owner’s tenant, of the owner’s property that may result in such material annoyance, inconvenience, and discomfort to the neighborhood or to the public that could cause resulting damage (e.g. offensive noise, vibration, smoke, odors, dust, heat, glare, garbage.).”

SECTION 2. Section 19.08.020, Maui County Code, is amended to read as follows:

**“19.08.020 Permitted uses.** Within residential districts, the following uses shall be permitted:

- A. Single-family dwellings;
- B. Greenhouses, flower and truck gardens, and nurseries; provided, that there shall be no retailing or transacting of business on the premises;
- C. Parks and playgrounds, noncommercial; certain commercial amusement and refreshment sale activities may be permitted when under supervision of the government agency in charge of the park or playground;
- D. [Schools, elementary]Elementary, intermediate, and high schools, and colleges, publicly or privately owned, which may include on-campus dormitories;
- E. Buildings or premises used by the federal, State, or [county] County governments for public purposes;
- F. Accessory buildings located on the same lot, the use of which is customary, incidental, usual, and necessary to that of the main building or to the use of the land;

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Planning Committee Chair (PC-33)

G. An accessory dwelling [may be permitted] where the area of the lot on which the main house is located is seven thousand five hundred square feet or more. Chapter 19.35 of this article, pertaining to accessory dwellings, shall be applicable to any accessory dwelling;

H. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care services. These facilities shall serve six or fewer children at any one time on lot sizes of less than seven thousand five hundred square feet, [serving] eight or fewer children at any one time on lot sizes of seven thousand five hundred or more square feet but less than ten thousand square feet, or [serving] twelve or fewer children at any one time on lot sizes of ten thousand or more square feet;

I. Subject to the restrictions and standards of chapter 19.64 of this title, Type 1 bed and breakfast homes shall be permitted on any lot; Type 2 bed and breakfast homes shall be permitted on lots of seven thousand five hundred square feet or greater, and Type 3 bed and breakfast homes shall be permitted on lots of ten thousand square feet or greater; and

J. Home [occupations] businesses pursuant to the provisions of chapter 19.67."

K. Short-term rental homes, subject to the provisions of chapter 19.65 of this title.

SECTION 3. Section 19.08.030, Maui County Code, is amended to read as follows:

**"19.08.030 Special uses.** The following are declared special uses, and approval by the appropriate planning commission shall be obtained:

A. Churches [together with] including any accessory buildings;

B. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care services serving more than the number of children defined in section 19.08.020(H);

C. Hospitals; provided, that written consent of seventy-five percent of the property owners within five hundred feet from the property to be used for such purpose has been obtained;

D. Nursing or convalescent homes and domiciliary facilities operated and maintained to provide nursing or supporting care;

E. Housing for the aged, operated by governmental or nonprofit organizations; provided, that the normal population density is not increased more than ten percent;

F. Housing for low and moderate income families, operated by governmental or nonprofit organizations; provided, that the normal dwelling unit density is not increased more than ten percent;

G. Public utilities substations, which are not and will not be hazardous or a nuisance to the surrounding areas; and

H. [Certain domestic ] Domestic type businesses in the home, that do not meet the definition of home business or home occupation, including group instruction of traditional Hawaiian practices such as lei making, ukulele classes, hula classes, and lomi lomi, provided there will be no detrimental or nuisance effect upon the neighbors. [Such businesses shall be normal functions of the home, such as baking, sewing and piano playing;].”

[I. Residential planned developments only] Specialized education.

J. Group instruction of traditional Hawaiian practices, such as lei making, ukulele classes, hula classes, and lomi lomi, if such instruction cannot qualify as a home-based business. Group instruction shall be limited to no more than ten students who do not reside on the property, and shall be conducted only between 9:00 a.m. and 8:00 p.m.”]

SECTION 4. Title 19, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

#### **“CHAPTER 19.67 HOME BUSINESSES**

Sections:

- |                  |  |
|------------------|--|
| <b>19.67.010</b> | <b>Purpose.</b>  |
| <b>19.67.020</b> | <b>Districts in which permitted.</b>                           |
| <b>19.67.030</b> | <b>General Standards.</b>                                      |
| <b>19.67.040</b> | <b>Home business permitted use standards and restrictions.</b> |
| <b>19.67.050</b> | <b>Home business special use standards and restrictions.</b>   |
| <b>19.67.060</b> | <b>Administrative rules.</b>                                   |
| <b>19.67.070</b> | <b>Enforcement.</b>  |

**19.67.010 Purpose.** The purpose of this chapter is to establish procedures for the regulation of home businesses.

**19.67.020 Districts in which permitted.** Home businesses shall be permitted in accordance with the provisions established in each zoning district and as provided in this chapter.

**19.67.030 General Standards.** A. Home businesses, as defined in section 19.04.040, shall conform to the character of the existing neighborhood in which they are situated. For purposes of this chapter, the character of the existing neighborhood shall include, but not be limited to, any conditions listed in a homeowner or condominium association conditions, covenants, or restrictions.

B. The home business shall be clearly incidental and secondary to the use of the dwelling unit as a residence.

C. The repair, manufacture, processing, or alteration of goods, materials, or objects that results in a detrimental effect or nuisance, as defined in chapter 19.04 of this title, shall be prohibited.

**19.67.040 Home business permitted use standards and restrictions.**

A. Only one person other than a member of the family residing on the premises of the dwelling unit shall be employed at the home business site.

B. No more than forty per cent of the floor area of any building on a lot shall be used by the home business.

C. A home business shall not generate traffic in greater volumes than would normally be expected in the neighborhood in which it is located.

D. Customers shall be limited to two at any given time, with a total of sixteen customers per day.

E. The on site home business hours of operation shall not interfere with the use and enjoyment of adjacent properties.

F. Except for one wall sign, not to exceed two square feet, there shall be no visible evidence of the home business, including, but not limited to, alterations to the exterior of the residence that changes the character of the residence or neighborhood, exterior displays, or the outdoor storage of materials or equipment used by the home business.

G. Any structure associated with a home business shall not require the installation of mechanical equipment other than which is common in a residential dwelling unit.

H. The repair of automobiles and other vehicles with internal combustion engines shall be restricted to no more than two at any time.

I. Baseyards are prohibited. For the purposes of this section "Baseyards" means a portion of a property that has a home business where materials, vehicles not in service, or equipment are stored.

**19.67.050 Home business special use standards and restrictions.**

A. Any home business in the agricultural district shall first obtain a state special use permit pursuant to the provisions of section 19.510.070 of this title.

B. Any home business that does not qualify as a permitted use shall first obtain a state special use permit pursuant to the provisions of section 19.510.070 of this title.

C. Two persons other than a member of the family residing on the premises of the dwelling unit may be employed at the home business site.

D. No more than forty per cent of the floor area of a dwelling unit on a lot shall be used by the home business.

E. The home business may use 100 per cent of any accessory building on the lot.

F. A home business shall not generate traffic in greater volumes than would normally be expected in the neighborhood in which it is located.

G. The on site home business hours of operation shall not interfere with the use and enjoyment of adjacent properties.

H. Except for signage as described in subsection (K) of this section, there shall be no visible evidence of the home business from alterations to the exterior of the residence. However, the character of the property may show minimal evidence of its business use, including a baseyard.

I. Baseyard vehicles, trailers, and other equipment shall be stored or parked in an organized manner and that is in an inconspicuous location on the lot.

J. All exterior storage shall be located behind the footprint of the dwelling unit and shall be screened so that it is nearly invisible from any right-of-way.

K. One wall sign or one ground sign shall be permitted, not to exceed three square feet. A ground sign shall not be permitted within fifteen feet of the front or side property line.

**19.67.060 Administrative rules.** The director shall adopt administrative rules to implement the provisions of this chapter.

**19.67.070 Enforcement. A.** Enforcement of this chapter shall be pursuant to the provisions of Section 19.530.030 of this title.

**B.** Home businesses proven to cause a nuisance as defined in section 19.04 of this title shall be subject to enforcement (e.g. offensive noise, vibration, smoke, odors, dust, heat, glare, electrical disturbances, or garbage)".

SECTION 5. Section 19.29.030, Maui County Code, is amended, by amending subsection (A) to read as follows:

**"19.29.030 Permitted uses.** The following uses and structures shall be permitted in the RU-0.5, RU-1, RU-2, RU-5, RU-10 and County rural districts, if they also conform with all other applicable laws:

**A. Principal Uses.**

1. One single-family dwelling per one-half acre in the RU-0.5 and County rural districts; and one single-family dwelling per one acre in the RU-1 district; one single-family dwelling per two acres in the RU-2 district; one single-family dwelling per five acres in the RU-5 district, and one single-family dwelling per ten acres in the RU-10 district;

2. Growing and harvesting of any agricultural or agricultural crop or product, subject to restrictions set forth in this chapter;

3. Minor utility facilities as defined in section 19.04.040 of this title;

4. Parks for public use, but not including commercial: camping, campgrounds, campsites, overnight camps, and other similar uses;

5. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, adult day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in dwelling units used for child care services. These facilities shall serve six or fewer clients at any one time on lot sizes of less than seven thousand five hundred square feet, [serving] eight or fewer clients at any one time on lot sizes of seven thousand five hundred or more

square feet but less than ten thousand square feet, or [serving] twelve or fewer clients at any one time on lot sizes of ten thousand or more square feet; and

6. Home [occupations] businesses.

SECTION 6. Section 19.30A.050, Maui County Code, is amended to read as follows:

**“19.30A.050 Permitted uses.** The following uses and structures shall be permitted in the agricultural district provided they also comply with all other applicable laws:

A. Principal Uses.

1. Agriculture;
2. Agricultural land conservation;
3. Agricultural parks, pursuant to chapter 171, Hawai'i Revised Statutes;
4. Animal and livestock raising, including animal feed lots and sales yards;
5. Private agricultural parks as defined herein;
6. Minor utility facilities as defined in section 19.04.040[, Maui County Code]of this title;
7. Retention, restoration, rehabilitation, or improvement of buildings, sites or cultural landscapes of historical or archaeological significance; and
8. Solar energy facilities, as defined in section 19.04.040[, Maui County Code]of this title, and subject to the restrictions of chapter 205, Hawaii Revised Statutes, that are less than fifteen acres, occupy no more than thirty-five percent of the lot, and are compatible with existing agricultural uses; except that land with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class D or E need not be compatible with existing agricultural uses.

B. Accessory Uses. Uses that are incidental or subordinate to, or customarily used in conjunction with a permitted principal use, as follows:

1. Two farm dwellings per lot, one of which shall not exceed one thousand square feet of developable area;
2. One farm labor dwelling per five acres of lot area. On the island of Maui, the owner or lessee of the lot shall meet two of the following three criteria:
  - a. Provide proof of at least \$35,000 of gross sales of agricultural product(s) per year, for the preceding two consecutive years, for each farm labor dwelling on the lot, as shown by State general excise tax forms and federal form 1040 schedule F fillings;

- b. Provide certification by the department of water supply that agricultural water rates are being paid if the subject lot is served by the County water system; or
- c. Provide a farm plan that demonstrates the feasibility of commercial agricultural production.

On the islands of [Moloka'i] Molokai and [Lana'i] Lanai, the owner or lessee of the lot shall meet both of the criteria provided by subsections [19.30A.050.B.2.a] 19.30A.050(B)(2)(a) and [19.30A.050.B.2.b] 19.30A.050(B)(2)(b);

3. One agricultural products stand per lot, for the purpose of displaying and selling agricultural products grown and processed on the premises or grown in the County, provided that said stand shall not exceed three hundred square feet, shall be set back at least fifteen feet from roadways, shall have a wall area that is at least fifty percent open, and shall meet the off-street parking requirements for roadside stands provided by section 19.36.010 of this code, except that paved parking shall not be required; stands that display or sell agricultural products that are not grown on the premises shall be required to obtain a special permit pursuant to chapter 205, [Hawai'i] Hawaii Revised Statutes;

4. Farmer's markets, for the growers and producers of agricultural products to display and sell agricultural products grown and processed in the County; structures shall have a wall area that is at least fifty percent open; markets shall operate only during daylight hours and shall not operate on parcels less than two acres; the director of public works may impose additional requirements if a building permit is required for any structure[s]; markets that display or sell agricultural products that are not grown on the premises shall be required to obtain a special permit pursuant to chapter 205, [Hawai'i] Hawaii Revised Statutes;

5. Storage, wholesale and distribution facilities, including barns; greenhouses; storage facilities for agricultural supplies, products and irrigation water; farmer's cooperatives; and similar structures that are customarily associated with one or more of the permitted principal uses or, for the purpose of this section, are associated with agriculture in the County;

6. Processing of agricultural products, the majority of which are grown in the County; this includes the burning of bagasse as part of an agricultural operation;

7. Energy systems, small-scale;

8. Small-scale animal-keeping;

9. Animal hospitals and animal board facilities; if conducted on the island of [Moloka'i] Molokai, such uses shall have been approved by the [Moloka'i] Molokai planning commission as conforming to the intent of this chapter;

10. Riding academies; if conducted on the island of [Moloka'i] Molokai, such uses shall have been approved by the [Moloka'i] Molokai planning commission as conforming to the intent of this chapter;

11. Open land recreation as follows: hiking; noncommercial camping; fishing; hunting; equestrian activities; rodeo arenas; arboretums; greenways; botanical gardens; guided tours that are accessory to principal uses, such as farm or plantation tours, petting zoos, and garden tours; hang gliding; paragliding; mountain biking; and accessory restroom facilities. If hiking, fishing, hunting, equestrian activities, rodeo arenas, hang gliding, paragliding or mountain biking [and]are conducted for commercial purposes on the island of [Moloka'i] Molokai, such uses shall have been approved by the [Moloka'i] Molokai planning commission as conforming to the intent of this chapter. Open land recreation uses or structures not specifically permitted by this subsection or by subsection 19.30A.060.H shall be prohibited; certain open land recreation uses or structures may also be required to obtain a special permit pursuant to chapter 205, [Hawai'i] Hawaii Revised Statutes;

12. Except on [Moloka'i] Molokai, bed and breakfast homes permitted under chapter 19.64 of this [code] title that are:

a. Operated in conjunction with a bona fide agricultural operation that produced \$35,000 of gross sales of agricultural products for each of the preceding two years, as shown by State general excise tax forms and federal form 1040 schedule F filings; or

b. In compliance with all of the following criteria, provided that the bed and breakfast home is not subject to a condominium property regime pursuant to chapter 514A, Hawaii Revised Statutes:

i. The lot was created prior to November 1, 2008;

ii. The lot is comprised of five acres or less; and

iii. An approved farm plan has been fully implemented and is consistent with chapter 205, Hawaii Revised Statutes; or

c. Located in sites listed on the State of Hawaii Historic Register or the National Register of Historic Places.

13. Parks for public use, not including golf courses and not including commercial uses, except when under the supervision of a government agency in charge of parks and playgrounds; and

14. [Home-based businesses; and]

[14. 15.] Other uses that primarily support a permitted principal use; however, such uses shall be approved by the appropriate planning commission as conforming to the intent of this chapter.”

SECTION 7. Section 19.30A, Maui County Code, is amended to read as follows:



**"19.30A.060 Special uses.** The following uses and structures shall be permitted in the agricultural district if a special use permit, pursuant to section 19.510.070 of this title, has been obtained; except that if a use described in this section also requires a special permit pursuant to chapter 205, Hawaii Revised Statutes, and if the land area of the subject parcel is fifteen acres or less, the state special permit shall fulfill the requirements of this section:

A. Additional farm dwellings beyond those permitted by subsection 19.30A.050.B.1;

B. Farm labor dwellings that do not meet the criteria of subsection 19.30A.050.B.2;

C. Agricultural products stands that do not meet the standards of subsection 19.30A.050.B.3;

D. Farmer's markets that do not meet the standards of subsection 19.30A.050.B.4;

E. Public and quasi-public institutions that are necessary for agricultural practices;

F. Major utility facilities as defined in section 19.04.040 of this title;

G. Telecommunications and broadcasting antenna;

H. Open land recreation uses, structures or facilities [which] that do not meet the criteria of subsection 19.30A.050.(B)(11), including commercial camping, gun or firing ranges, archery ranges, skeet shooting, paint ball, bungee jumping, skateboarding, roller blading, accessory buildings and structures. Certain open land recreation uses or structures may also be required to obtain a special permit pursuant to chapter 205, Hawaii Revised Statutes. The following uses or structures shall be prohibited: airports, heliports, drive-in theaters, country clubs, drag strips, motor sports facilities, golf courses and golf driving ranges;

I. Cemeteries, crematories, and mausoleums;

J. Churches and religious institutions;

K. Mining and resource extraction;

L. Landfills;

M. Solar energy facilities that are greater than fifteen acres[.]; [and]

N. Short-term rental homes, subject to the provisions of chapter 19.65 of this title; provided that, the applicant need not obtain a County special use permit pursuant to section 19.510.070 of this title; and provided further that, if the property containing the short-term rental home is located in the State agricultural district, the applicant shall obtain a State special use permit, pursuant to section 205-6, Hawaii Revised Statutes, in addition to the short-term rental home permit required by chapter 19.65 of this title[.] ; and

O. Home businesses."

SECTION 8. Section 19.36A, Maui County Code, is amended to read as follows:

**“19.36A.010 Designated number of spaces.** Unless otherwise provided in this chapter, the following minimum numbers of accessible off-street facilities for the parking of self-propelled motor vehicles shall be provided on private property in connection with the use of any land, or the erection or remodeling of any building or structure. The number of off-street parking spaces required shall not be less than the sum total of spaces of the number of required parking spaces for each component use of land, building, or structure hereinafter specified:

| USE   | MINIMUM PARKING RATIO   |
|---|---|
| Accessory dwelling  | One parking space for each dwelling unit.   |
| Apartment house, apartment, apartment-motel with kitchen facility in room   | Two parking spaces for each unit; provided, that two parking spaces assigned to a dwelling unit, or allocated for employee parking, may be situated in tandem thereby allowing two vehicles to park end to end.   |
| Auditorium, theater, stadium, bleachers   | One parking space for every six seats.  |
| Banks and medical and dental clinics  | One parking space for every three hundred square feet of building; provided, that the minimum shall be three parking spaces.  |
| Bed and breakfast home  | One parking space for each bedroom used for short-term rental, in addition to any other parking space(s) required by this section for dwellings not used for short-term rental. Stalls may be situated in tandem. |
| Bowling alley   | Five parking spaces for each alley.   |
| Business building   | One parking space for every five hundred square feet of floor area of building; provided, that the minimum shall be three parking spaces.   |
| Church, place of worship  | One parking space for every one hundred square feet of floor area of building.  |
| Clubhouse, private club   | One parking space for every two hundred square feet of floor area of building.  |
| Convertible apartment, hotel and apartment/hotel units, i.e., single units capable of being utilized as two or more units | An additional one parking space for every three convertible units shall be provided.  |
| Day care facility   | One parking space for each classroom.   |
| Domestic type business in home  | One parking space for each business.  |
| Golf course   | Three parking spaces for each hole in the course.   |
| Golf driving range  | Four parking spaces for each acre.  |
| Home business   | A maximum of two parking spaces, provided that the  |

| USE  | MINIMUM PARKING RATIO   |
|--|---|
|  | <u>parking spaces are utilized only between 9:00 a.m. and 6:00 p.m.</u>   |
| Hospitals  | One parking space for every three beds.   |
| Hotel  | One parking space for every two guest rooms.  |
| Industrial or storage uses in M-1 and M-2 industrial zones | One parking space for every six hundred square feet of floor area of building or twenty-five percent of the lot area, whichever is the greater.   |
| Library, museum, art gallery                               | One parking space for every three hundred square feet of floor area of building.  |
| Live/work mixed use  | One parking space for every seven hundred fifty square feet of area used for live/work business; commercial uses and residential uses with a live/work configuration may share parking spaces. The spaces required for the residential unit on a live/work building lot may be applied toward the number of spaces required for a business use. |
| Lodging house  | One parking space for every two lodging rooms.  |
| Mortuary   | One parking space for every forty square feet of floor area of building.  |
| Motel  | One and one-half parking spaces for each unit.  |
| Public utility substation                                  | One parking space.  |

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| Restaurant, bar, nightclub, amusement centers   | One parking space for every one hundred square feet of serving and dining areas; provided, that there shall be a minimum of three parking spaces for patrons and a minimum of three additional spaces for employee parking for each such establishment.                              |
| Roadside stand  | Two parking spaces for each stand.   |
| Sanitarium, welfare institution, nursing home   | One parking space for every eight beds.  |
| SBR mixed-use establishment   | Two parking spaces per dwelling unit plus one space for every three hundred square feet of non-residential gross floor area.   |
| SBR service establishment   | One parking space for every three hundred square feet of gross floor area.   |
| School with students under fifteen years of age and with students fifteen years of age or older | Eight parking spaces for each classroom.   |
| School with students under fifteen years of age   | One parking space for each classroom.  |
| School with students fifteen years of age or older  | Eight parking spaces for each classroom.   |
| Self-storage  | One parking space for every three thousand square feet of storage.   |
| Service station, repair shop, garage  | One parking space for every two hundred square feet of floor area of building or forty percent of the lot area, whichever is the greater. The storing and keeping of damaged vehicles or parts thereof shall be within an enclosure bounded completely by a wall six feet in height. |
| Shopping centers  | One parking space for every two hundred square feet of floor area of all buildings, except for restaurant, bar, nightclub, and amusement facilities, for which parking requirements under this section shall apply.  |
| Single-family dwelling, farm dwelling, duplex   | Two parking spaces for each dwelling unit.   |
| Swimming pool, gymnasium  | One parking space for every six hundred square feet of gross floor area of pool or building.   |

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| Taxi stand and bus stand   | One parking space for each vehicle operating from that stand. The space shall be sufficient in size to accommodate the bus or vehicle, and shall be marked "Taxi Only" or "Bus Only".  |
| Tennis courts  | Six parking spaces for each court.   |
| Transient vacation rental in the SBR service business residential district | One parking space for every five hundred square feet of floor area, with a minimum of one parking space for each unit.   |
| U-drive stand and storage  | One parking space for each vehicle operating from that stand or storage. Where the U-drive business is within a hotel district, the storage area for the U-drive vehicles shall be physically separated from the hotel parking area, and shall be physically bounded and marked for "U-Drive Vehicles Only". |

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SECTION 9. Section 3.48.305(B), Maui County Code, is amended to read as follows:

**“3.48.305 Classification of land and building.** A. Except as otherwise provided in subsection B of this section, land and building shall be classified, upon consideration of the real property's highest and best use, into the following general classes:

1. Residential;
2. Apartment;
3. Hotel and resort;
4. Time share;
5. Commercial;
6. Industrial;
7. Agricultural;
8. Conservation;
9. Homeowner; and
10. Commercialized residential.

B. In assigning land to one of the general classes, the director of finance shall give major consideration to the districting established by the land use commission pursuant to chapter 205 of the Hawaii Revised Statutes, the districting established by the county in its general plan and zoning ordinance, use classifications established in the general plan of the State, and such other factors that influence highest and best use, except that:

1. A parcel that is used exclusively as the owner's principal residence and has been granted a home exemption in accordance with sections 3.48.410 and 3.48.475 of this chapter shall be classified as "homeowner" without regard to its highest and best use;

2. A parcel that has been granted a bed and breakfast permit, a transient vacation or rental permit, [or] a conditional permit to operate a transient vacation rental, or is a home business, pursuant to title 19 of this code shall be classified "commercialized residential" without regard to its highest and best use; and

3. A parcel that is subject to a time share plan as defined in section 514E-1, Hawaii Revised Statutes, as amended, shall be classified as "time share."

C. When property is subdivided into condominium units, each condominium association or any entity filing a condominium property regime shall file an annual report with the director of finance of all units in the association, by tax map key number, before December 1 of each calendar year.

1. The director of finance shall prescribe the form of the list and any supporting evidence as necessary. The list shall include whether the unit is vacant, owner occupied, or rented long term or short term, by month;

2. Each unit and its appertaining common interest shall be:

a. Classified upon consideration of its actual use into one of the general classes as follows:

i. Homeowner. Only those units owned and occupied as a principal home and for which a home exemption claim was filed and granted shall be classified as "homeowner."

ii. Apartment. Only those units occupied by the owner for personal use or by a lessee for a term of six consecutive months or more shall be classified as "apartment."

iii. Commercial. Only those units occupied by the owner or a lessee for business or mercantile activities shall be classified as "commercial."

iv. Hotel and Resort. Units occupied by transient tenants for periods of less than six consecutive months shall be classified as "hotel and resort."

v. Time share. Units occupied by transient tenants for periods of less than six consecutive months that are subject to a time share plan as defined in section 514E-1, Hawaii Revised Statutes, as amended, shall be classified as "time share."

vi. Commercialized residential. Units that have been granted a bed and breakfast permit, a transient vacation rental permit, or a conditional permit to operate a transient vacation rental pursuant to title 19 of this code shall be classified as "commercialized residential"; and

b. Deemed a parcel and assessed separately from other units.

3. The director of finance may, after investigation, re-classify and re-assess any unit in a condominium association found to be in violation of the owner's certification of actual use; and

4. A condominium owner and/or the condominium association or any entity filing a condominium property regime shall notify the director of finance of any change in a unit's classification within thirty days of that change.”

SECTION 10. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 11. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

pc:misc:033abill01:kcw